



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Memorable Thomas A. Wheat
County Attorney
Liberty County
Texas

Dear Mr. Wheat:

4038

Opinion No. G-4038

Re: Authority of the County Clerk
to dispose of old ballots and
election supplies by giving
them to Boy Scouts in connec-
tion with their Defense program
of collecting old paper.

Your letter of March 10, 1943, requesting an opinion from this Department upon the above subject matter is as follows:

"The County Clerk of Liberty County has requested that I obtain from your department an opinion as to whether or not he can legally dispose of old ballots and election supplies by giving them to the Boy Scouts in connection with their Defense program in regard to the collection of old paper."

"Article 280 of the Penal Code, U.C.S., of 1925, which reads as follows:

"If any County Clerk shall fail after the expiration of one year from the date of any election to destroy by burning all the ballots cast at such election, which may have come to his custody, he shall be punished as prescribed in the preceding Article."

"I interpret this Statute to mean that it is mandatory upon the Clerk to destroy the

Honorable Thomas A. Shear - Page 2

2032
ballots actually cast by burning. However,
since there is no provision made for the
disposition of election supplies, it is my
interpretation that they could be disposed
of in any manner that he chooses.

* * * * *

Your interpretation of the statute is correct.

The commendable spirit of conserving in this cur-
sos of defense measures is to be commended and supported
in every reasonable way, but it does not authorize nor justify
any county official (or individual as to that) in violating a
plain law, and thereby committing a crime. There is no cap-
vening law or war-time regulation suspending the operation of
the penal statutes quoted by you.

Very truly yours

APPROVED MAR 27, 1942 ATTORNEY GENERAL OF TEXAS
John Shuler
BY
ASSISTANT
ATTORNEY GENERAL
Octa Speer
Assistant

OS-LR

